

State OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

In the Matter of License 4596 (Application 11072)
Mary Michels, Bruce Michels, Fred Yarcho, Ruth Yarcho and Richard Peterson

ORDER REVOKING LICENSE

SOURCE: Barrel Springs tributary to Mazourka Canyon thence Owens River

COUNTY: Inyo

WHEREAS:

1. The State Water Board issued License 4596 on April 24, 1957. The Division of Water Rights' (Division) records show James H. Broady and Lois Broady (Licensees) as the owners of License 4596. The license authorizes the Licensees to divert 0.45 cubic foot per second to be diverted from January 1 to December 31 of each year.
2. The license was assigned to Percival P. Cox and Eugenia Cox on March 23, 1961. On May 17, 1962, the license was assigned to Cletus W. Michels. On March 6, 1990, the license was assigned to Mary M. Michels and Bruce A. Michels. On October 3, 1995, the Division added Fred Terrance Yarcho, Ruth Ellinor Yarcho and Richard C. Peterson to the license based on an information sheet submitted with the triennial Report of Licensee for 1992, 1993 and 1994 dated September 21, 1995. The Division confirmed the change in ownership in a June 16, 1997 Order.
3. Section 1675 of the Water Code provides: "If at any time after a license is issued, the board finds that the licensee has not put the water granted under the license to a useful or beneficial purpose in conformity with this division or that the licensee has ceased to put the water to such useful or beneficial purpose, or that the licensee has failed to observe any of the terms and conditions in the license, the board, after due notice to the licensee and after a hearing, when a hearing is requested by the licensee pursuant to section 1675.1, may revoke the license and declare the water to be subject to appropriation in accordance with this part."
4. When a person entitled to the use of water fails to use beneficially all or any part of the water claimed by him, for which a right has vested, for the purpose for which it was appropriated or adjudicated, for a period of five years, such unused water may revert to the public and shall, if reverted, be regarded as unappropriated public water."
5. The Division has no records to show that any water has been diverted under License 4596 since the triennial Report of Licensee for 1992, 1993 and 1994.
6. On April 27, 2006, Division staff contacted the U. S. Forest Service, Inyo National Forest and talked to Lynn Oliver regarding License 4596. Mr. Oliver said the mining rights have been expired for close to ten years and they are currently participating in a "clean up" of the surrounding area from past mining and milling projects.

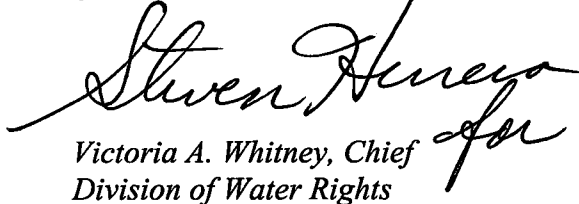
7. On May 18, 2006, Mr. Oliver e-mailed the Division stating he had reviewed the Barrel Springs case file held by the Forest Service at the White Mountain Ranger Station, Bishop CA. Mary M. Michels and Bruce Michels have been associated with the site from 1979 to 1994. A July 15, 1994 quit claim deed indicated the Michels sold the unpatented mining claim to Fred T. Yarcho, Ruth E. Yarcho, and Richard Peterson. These individuals had apparently been leasing the claim from the Michels since 1990. The Bureau of Land Management terminated the Barrel Springs Lode Claims in 1996. When the claims were terminated, all forms of ownership ceased for the mineral rights. Since the claim was in the Inyo Wilderness they could not be re-filed or re-staked. The mineral rights reverted to the U. S. Government.

Based on the above facts, the Division of Water Rights concludes that:

1. The State Water Board has found that Licensees failed to apply the water to beneficial use under the terms and conditions of this license.
2. Licensees have not applied the water to beneficial use for at least five consecutive years. Licensees' water right should, therefore, be revoked pursuant to Water Code section 1675. The unused water should be deemed to have reverted to the public and be regarded as unappropriated public water under pursuant to Water Code section 1675 because Licensees have provided no basis for determining that it should not revert.
3. On May 25, 2007, Licensees were provided notice by certified mail of the proposed revocation. The notice provided the Licensees the opportunity to object to the proposed revocation and request a hearing.
4. Licensees did not submit a request for a hearing to the Division.

Therefore, it is ordered that License 4596 is hereby revoked by the State Water Board pursuant to Water Code section 1675, and the water is declared to be subject to appropriation. This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past State Water Board decisions regarding water availability.

STATE WATER RESOURCES CONTROL BOARD


Victoria A. Whitney, Chief
Division of Water Rights

Dated: **JAN 02 2008**



STATE OF CALIFORNIA—STATE WATER RIGHTS BOARD

License for Diversion and Use of Water

Notice of Assignment (Over)

APPLICATION 11072

PERMIT 6443

LICENSE 4596

THIS IS TO CERTIFY, That James H. & Lois Broady
Box 275, Big Pine, Inyo County, California

have made proof as of April 16, 1956
(the date of inspection) to the satisfaction of the State Water Rights Board of a right to the use of the water of
Barrel Springs in Inyo County

tributary to Mazourka Canyon and Owens River

for the purpose of mining and domestic uses
under Permit 6443 of the State Water Rights Board and that said right to the use of said water has been
perfected in accordance with the laws of California, the Rules and Regulations of the State Water Rights Board and the
terms of the said permit; that the priority of the right herein confirmed dates from June 18, 1945;
and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited
to the amount actually beneficially used for said purposes and shall not exceed forty-five hundredths (0.45)
cubic foot per second to be diverted from January 1 to December 31 of each year.

The point of diversion of such water is located east two hundred (200) feet from W $\frac{1}{4}$
corner of Section 20, T 12 S, R 36 E, MDB&M, being within SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of said
Section 20.

A description of the lands or the place where such water is put to beneficial use is as follows: mining and domestic
use within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 19, T 12 S, R 36 E, MDB&M.

Water is returned to Mazourka Canyon within NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 19, T 12 S,
R 36 E, MDB&M.

All rights and privileges under this license including method of diversion, method of use and quantity of water
diverted are subject to the continuing authority of the State Water Rights Board in accordance with law and in the
interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of
diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time
to time by the State Water Rights Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein
specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

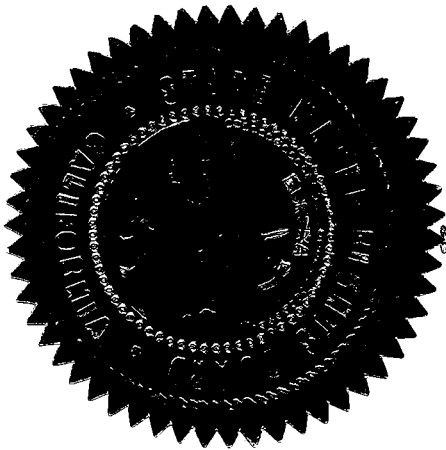
Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: APR 24 1957

STATE WATER RIGHTS BOARD

By Leslie C. Jopson
Leslie C. Jopson
Chief Engineer



3/20/61
Eugenia Cox
5-14-62
3-6-90
RECEIVED NOTICE OF ASSIGNMENT TO Percival P. &
RECEIVED NOTICE OF ASSIGNMENT TO Cletus W. Michels
3-6-90 Assigned to Mary Mard Bruce A. Michels

LICENSE 4596
STATE OF CALIFORNIA
STATE WATER RIGHTS BOARD

LICENSE
TO APPROPRIATE WATER

ISSUED TO James H. & Lois Broady

DATED APR 24 1957

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

Application 11072 Permit 6443 License 4596

ORDER AMENDING LICENSE

WHEREAS:

1. License 4596 was issued to James and Lois Broady and recorded at the office of the Inyo County Recorder on April 26, 1957.
2. License 4596 was subsequently assigned to Mary M. Michels, Fred T. Yarcho, Ruth E. Yarcho, and Richard C. Peterson.
3. License 4596 confers upon Mary Michels et al., an appropriative right to use water from Barrel Springs tributary to Mazourka Canyon and the Owens River in Inyo County.
4. Fish and Game Code Section 5946 requires that the State Water Resources Control Board condition Licenses that authorize diversion of water in Department of Fish and Game District 4 ½ (Inyo and Mono Counties) to specify compliance with Section 5937 of the Fish and Game Code.
5. The License was issued without referencing compliance with Section 5937.
6. Since amendment of License 4596 to require compliance with Fish and Game Code Section 5937 is a ministerial action, this Order is exempt from the provisions of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines in accordance with Section 21080 of the Public Resources Code.

NOW, THEREFORE, IT IS ORDERED THAT:

The following condition is added to this License:

In accordance with the requirements of Fish and Game Code Section 5946, this License is conditioned upon full compliance with Section 5937 of the Fish and Game Code.

Dated: **JUNE 16 1997**


Walt Pettit
Executive Director